

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
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R 091632Z JUN 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC 9260
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION USBERLIN
USMISSION USNATO

C O N F I D E N T I A L SECTION 01 OF 02 BONN 10631

E.O. 11652: GDS
TAGS: PGOV, BQG, AKB
SUBJECT: REPLY TO SOVIET PROTEST OF MARCH 6 ON
EXTENSION OF FRG LAWS TO BERLIN

REF: (A) USBERLIN 927 (NOTAL), (B) USBERLIN 551,
(C) BONN 7934 (D) 77 USBER 183

BEGIN SUMMARY: AT THE JUNE 6 BONN GROUP MEETING, AD REF AGREEMENT WAS REACHED ON AN ALLIED REPLY TO THE SOVIET PROTEST OF MARCH 6 ON THE EXTENSION OF FEDERAL LAWS TO WEST BERLIN. THE REVISED TEXT (PARA 1, INFRA) IS ESSENTIALLY THAT PROPOSED BY THE BERLIN MISSIONS (REF A), BUT CONTAINS SEVERAL EDITORIAL CHANGES PROPOSED BY THE UK AND THE FRG. THOSE WHICH ARE NOT SELF-EXPLANATORY ARE DESCRIBED BELOW. IT WAS ALSO AGREED AD REF THAT THE ALLIED REPLY TO THE SOVIET PROTEST ON LANDTAGE MEETINGS (REF C) SHOULD BE MADE AT THE SAME TIME AS THE REPLY ON THE EXTENSION OF FEDERAL LEGISLATION. ACTION REQUESTED:
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SEE PARAGRAPH 7. END SUMMARY.

1. THE FOLLOWING IS THE TEXT OF A PROPOSED ALLIED REPLY TO THE SOVIET PROTEST OF MARCH 6, AS AGREED AD REF BY THE BONN GROUP ON JUNE 6.

BEGIN TEXT

A. ON 6 MARCH YOU MADE A STATEMENT TO THE CHAIRMAN POLITICAL ADVISER CONCERNING THE EXTENSION TO BERLIN OF FIVE FEDERAL LAWS.

B. THE EXTENSION TO BERLIN OF THE HAGUE CONVENTION ON THE SERVING ABROAD OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS OF 15 NOVEMBER 1965, AND THE MONTREAL CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION OF 23 SEPTEMBER 1971, HAS BEEN AUTHORIZED BY THE ALLIED KOMMANDATURA IN ACCORDANCE WITH ESTABLISHED PROCEDURES WHICH WERE CONFIRMED IN ANNEX IV TO THE QUADRIPARTITE AGREEMENT OF 3 SEPTEMBER 1971. THE ADOPTION IN BERLIN OF THE LAWS RATIFYING THESE CONVENTIONS WAS CARRIED OUT IN ACCORDANCE WITH THE ESTABLISHED PROCEDURES CONCERNING THE APPLICABILITY TO THE WESTERN SECTORS OF BERLIN OF LEGISLATION OF THE FEDERAL REPUBLIC. THAT SUCH PROCEDURES WOULD REMAIN UNCHANGED WAS CONFIRMED IN THE LETTER OF 3 SEPTEMBER 1971 FROM THE THREE AMBASSADORS TO THE CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY OF WHICH THE SOVIET AMBASSADOR TOOK NOTE.

C. WITH REGARD TO THE LAW IMPLEMENTING THE HAGUE CONVENTION REFERRED TO ABOVE, THE EXTENSION TO BERLIN OF THAT CONVENTION IS IN NO WAY INCONSISTENT WITH THE

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PROVISIONS OF ANNEX IV TO THE QUADRIPARTITE AGREEMENT SINCE NO MATTER OF SECURITY OR STATUS IS AFFECTED. THE OBJECT OF THE CONVENTION IS TO SIMPLIFY AND CENTRALIZE THE PROCEDURE FOR SERVICE OF DOCUMENTS. WHEN ACTING IN RELATION TO BERLIN THE CONTROL AUTHORITY DESIGNATED UNDER ARTICLE 2 OF THE CONVENTION WILL BE ACTING UNDER BERLIN LAW. NO QUESTION OF THE FEDERAL AUTHORITIES PURPORTING TO REGULATE MATTERS CONCERNING CONSULAR OR OTHER OFFICIAL REPRESENTATIONS IN THE WESTERN SECTORS OF BERLIN ARISES.

D. AS FOR THE LAW IMPLEMENTING THE MONTREAL CONVENTION REFERRED TO ABOVE, WHEN APPROVING THE EXTENSION TO BERLIN OF THAT CONVENTION, THE ALLIED KOMMANDATURA TOOK THE NECESSARY STEPS TO ENSURE THAT ALLIED RIGHTS AND RESPONSIBILITIES IN THE FIELD OF CIVIL AVIATION REMAINED UNAFFECTED.

E. THE ADOPTION IN BERLIN OF THE ORDINANCE ON THE EXEMPTION OF HOLDERS OF OFFICIAL PAKISTAN PASSPORTS FROM OBTAINING A RESIDENCE PERMIT FOR THE FEDERAL REPUBLIC OF GERMANY, AND THE EXTENSION TO BERLIN OF

THE EXCHANGE OF NOTES BETWEEN THE FRG AND PAKISTAN WHICH
IS A CONDITION PRECEDENT TO THE COMING INTO FORCE OF

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THE ORDINANCE, HAVE BEEN CARRIED OUT AND AUTHORIZED
RESPECTIVELY IN ACCORDANCE WITH THE ESTABLISHED PRO-
CEDURES REFERRED TO ABOVE. THE ORDINANCE WAS MADE UNDER
THE FEDERAL LAW ON ALIENS WHICH HAS ALSO BEEN ADOPTED
IN BERLIN IN ACCORDANCE WITH THOSE PROCEDURES. WITH
REGARD TO THE FUNCTIONS OF THE FEDERAL AUTHORITIES WITH
REGARD TO RESIDENCE PERMITS FOR BERLIN, I WOULD REFER
YOU TO THE PAPER HANDED TO YOU BY THE CHAIRMAN POLITICAL
ADVISER ON 17 JANUARY 1977 REGARDING THE MATTER.

F. THE LAW OF 13 APRIL 1978 AMENDING THE PENAL CODE HAS
BEEN ADOPTED IN BERLIN IN ACCORDANCE WITH ESTABLISHED
PROCEDURES. THE PURPOSE OF THE LAW IS TO COMBAT CRIME.
THE ALLIED KOMMANDATURA HAS TAKEN THE NECESSARY STEPS
TO ENSURE THAT ALLIED RIGHTS, RESPONSIBILITIES AND
LEGISLATION ARE NOT AFFECTED.

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G. THE ALLIED KOMMANDATURA ACCORDINGLY REJECTS TOTALLY THE ASSERTIONS THAT THIS LEGISLATION IS CONTRARY TO THE QUADRIPARTITE AGREEMENT AND CANNOT BE APPLIED IN BERLIN.

H. WE ARE UNABLE TO TRACE THE PARTICULAR FEDERAL LAW ON THE CENSUS OF THE POPULATION OF WHICH YOU HAVE COMPLAINED. IT IS POSSIBLE THAT YOU ARE REFERRING TO A BILL ON THIS SUBJECT WHICH IS STILL BEFORE THE FEDERAL PARLIAMENT IN DRAFT. IF SO YOU WILL APPRECIATE THAT WE CANNOT COMMENT ON LEGISLATION WHICH HAS NOT YET BEEN PASSED. END TEXT

2. IN THE SECOND SENTENCE OF PARA C, THE PHRASE "BY THE FEDERAL GOVERNMENT" WAS DROPPED BECAUSE THE FRG REP (VON BRAUNMUEHL) SAID THAT THE LEGISLATION WOULD ALLOW NOT ONLY THE FRG, BUT ALSO THE SENAT TO DESIGNATE THE CENTRAL CONTROL AUTHORITY.

3. CONCERNING SENTENCE TWO OF PARA F, VON BRAUNMUEHL ASKED IF THE ALLIES HAD MADE A DETERMINATION THAT THE LEGISLATION CONCERNED SECURITY. HE SAID THAT, IF NOT, THE PRESENT LANGUAGE COULD UNNECESSARILY OFFER THE SOVIETS A PRETEXT FOR FURTHER COMPLAINTS. IT WAS AGREED TO AVOID THE PROBLEM BY SIMPLY OMITTING THE PHRASE "BUT IN SO FAR AS IT CONCERNS SECURITY", AND, IN THE FOLLOWING SENTENCE, THE PHRASE "IN THAT FIELD."

4. PARA G WAS ALTERED AT BRITISH REQUEST TO REFLECT MORE ACCURATELY THE CHARGES MADE BY THE SOVIETS.

5. PARA H, ALSO REVISED AT BRITISH REQUEST, TAKES INTO ACCOUNT INFORMATION RECENTLY PROVIDED TO THE BONN GROUP BY THE FRG INTERIOR MINISTRY.

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6. IT WAS ALSO AGREED AD REF THAT THE ALLIED ORAL REPLY (REF C) TO THE SOVIET PROTEST OF APRIL 19 ON LANDTAG MEETINGS IN WEST BERLIN SHOULD BE MADE AT THE SAME TIME THE REPLY IN PARA 1 SUPRA IS DELIVERED. IT WAS AGREED THAT THE "FRG" BEFORE THE WORD "LANDTAGE" IN THE ALLIED REPLY ON LANDTAG MEETINGS SHOULD BE DELETED, BECAUSE THE WEST BERLIN HOUSE OF REPRESENTATIVES IS INCLUDED IN THE CONFERENCE OF LANDTAGE.

7. ACTION REQUESTED: DEPARTMENT'S APPROVAL OF THE TEXT IN PARA 1 SUPRA AND OF THE DELIVERY OF THE ALLIED REPLY TO THE SOVIET PROTEST ON LANDTAG MEETINGS AT THE SAME TIME AS THE ALLIED REPLY TO THE SOVIET PROTEST ON THE EXTENSION OF FEDERAL LEGISLATION.

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